

Connecticut Fair Housing Center

Testimony in Support of House Bill 5483 An Act Extending the Foreclosure Mediation Program

Co-Chairs Bartolomeo and Butler, other members of the Committee, thank you for the opportunity to speak to you today. My name is Jeff Gentes and I manage the Connecticut Fair Housing Center's fair lending and foreclosure work. I am here to express the Center's strong support of House Bill No. 5483, An Act Extending the Foreclosure Mediation Program.

Your work in creating the Program in 2008 at the beginning of the foreclosure crisis has helped save, according to the attached report from the Judicial Branch, more than 12,000 homes (see p. 11). Given all the immense problems thousands of Connecticut homeowners facing foreclosure have encountered when dealing with their mortgage companies, problems we at the Center hear about every day,¹ we know that many of these homeowners would have lost their homes if mediation weren't available. Because tens of thousands of homeowners are still facing foreclosure, we need to keep foreclosure mediation well beyond its June 30 sunset date, and we thank you for raising this bill.

We expect the foreclosure crisis to last another three or four years, and we expect that the vast majority of homeowners facing foreclosure will continue to represent themselves in court, without a lawyer.² When the crisis is over, homeowners facing a foreclosure lawsuit will still be

¹ The Connecticut Fair Housing Center is the only statewide nonprofit providing representation and advocacy for homeowners facing foreclosure. We have reached homeowners in at least 164 towns since 2010. In 2013, we provided individual advice, representation, and/or in-person education to about 2000 homeowners.

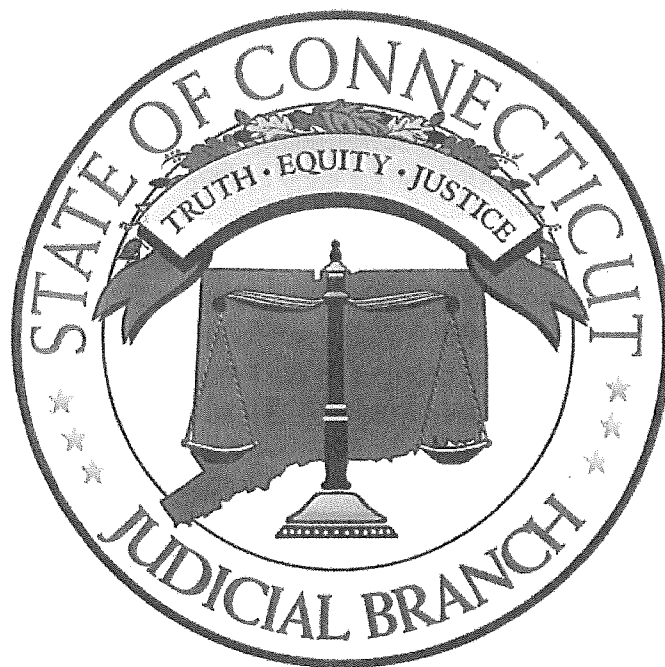
² Even though there are now many more lawyers than before with experience representing homeowners in court, 71% of the mediations reviewed by Judicial in the last half of 2013 were self-represented.

on their own and still need mediation – perhaps even more so then, when many federal mortgage programs that have made resolution easier will have expired.

Those homeowners would be able to survive the process, and come to resolution, if foreclosure mediation were still around. Tenants in Housing Session and parties in family proceedings have long benefited from dedicated mediators. Given the Foreclosure Mediation Program's success and homeowners' need for mediation, we ask that the sunset date be eliminated altogether. The program will need fewer mediators down the road, but will still be needed. I've attached legislation that would eliminate the Program's sunset date; it would carry no fiscal note for this year.

If you did elect to pursue the four-year extension, we have one technical suggestion: the original language in sections 49-31n(b)(10) and 49-31n(c)(10) should be restored. The references to October 1, 2013 in each section relate to changes made by last year's Public Act 13-136, and should not reference October 1, 2017.

Thank you for your time, and for your support of the Foreclosure Mediation Program.



Foreclosure Mediation Program

*Report to the General Assembly
Submitted Pursuant to Section 4(d) of Public Act 13-136*

February 14, 2014

Office of the Chief Court Administrator
Honorable Patrick L. Carroll, III

The following report concerning the Foreclosure Mediation Program is submitted pursuant to General Statutes §§ 11-4a and 49-31n (d)(1).



Introduction

The mortgage foreclosure crisis continues to have profound effects on Connecticut homeowners, their families and children. Its impact has extended to the neighborhoods in which they live, their surrounding communities, the State's economy, and to the nation. Recognizing the need for early intervention, in 2008 the Connecticut General Assembly established the first statewide Foreclosure Mediation Program in the country, effective July 2008 pursuant to No. 08-176 of the 2008 Public Acts.¹ The Program is often cited as a model for developing and operating statewide foreclosure mediation programs across the nation based upon its structure, operational history, and positive results. Since its inception, changes to the Program have come about as a result of statutory amendments,² most recently by No. 13-136 of the 2013 Public Acts.

Early in the crisis, with the U.S. economy continuing to weaken and job losses multiplying, federal assistance programs such as the President's *Making Home Affordable* programs were created and then expanded in an attempt to assist homeowners in crisis and find alternatives to foreclosure. In Connecticut, the state's Emergency Mortgage Assistance Program was expanded in order to reach previously ineligible homeowners with Federal Housing Administration (FHA)-insured loans. More recently, in 2012, 49 state attorneys general and the federal government announced the National Mortgage Settlement (NMS), a joint state-federal settlement with the nation's five largest mortgage servicers³ for alleged improper mortgage servicing practices. The NMS, totaling \$25 billion, represented the largest consumer financial protection settlement in U.S. history. Connecticut's share was \$190 million, a portion of which went towards state foreclosure prevention programs. Among other things, the Settlement created new mortgage loan servicing standards, irrespective of loan ownership.⁴ Many of the servicing standards

¹ Public Act 08-176, *An Act Concerning Responsible Lending and Economic Security*, created the Foreclosure Mediation Program and was codified as General Statutes §§ 49-31f through 49-31o, inclusive.

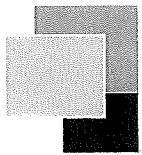
² See Public Acts 2009, No. 09-209; Public Acts 2011, No. 11-201.

³ Bank of America, N.A.; CitiMortgage, Inc.; J.P. Morgan Chase Bank, N.A.; Wells Fargo & Company and Wells Fargo Bank, N.A.; and Residential Capital LLC and affiliates (formerly GMAC).

⁴ Joseph A. Smith, Jr. was appointed to serve as Compliance Monitor of the NMS. His responsibilities include ensuring that there is compliance with the consumer relief and servicing standards of the Settlement. His reports can be found at www.mortgageoversight.com.

parallel requirements found in our own foreclosure mediation statute or court standing orders.⁵

Despite these various, ongoing efforts to mitigate the number of homes lost to foreclosure, Connecticut continues to see high foreclosure rates.⁶ Notwithstanding these numbers, however, the Foreclosure Mediation Program continues to record positive settlement results for homeowners who complete mediation, permitting them to retain their homes or gracefully exit from them. Foreclosure Mediation Program statistics since inception and for 2013 are attached to this report.



Foreclosure Mediation Program Summary

The traditional mediation process generally involves parties to a dispute sitting in a room together, engaged in confidential discussions which are facilitated by a third party neutral, with the goal of reaching a mutually agreeable settlement of the dispute. The parties present generally have settlement authority, and rarely rely on a “play book” of available outcomes, instead having the flexibility to craft creative solutions to their conflict.

By contrast, the foreclosure mediation landscape looks quite different. The options available to homeowners to avoid foreclosure are frequently predetermined by loan type and origination, the amount of the arrearage, the identity of the servicer and investor, and the borrower’s current financial situation. Rather than to facilitate creative problem solving, the mediator’s role is, in large part, to ensure that homeowners provide requested documentation and loan servicers timely and properly review them for the assistance for which they are eligible according to applicable program guidelines. Despite their duty to be unbiased,⁷ mediators are required to file reports to the court of mediation sessions, which address the parties’ behavior,⁸ which can be used by the court to support the imposition of sanctions.⁹ Reportedly, lender representatives with settlement authority are rarely present, either by phone or in person, and often those who are present lack knowledge of the file’s status or loss mitigation program

⁵ Mortgage Foreclosure Standing Order Federal Loss Mitigation Programs, form JD-CV-117, Rev. 8/10; Uniform Foreclosure Mediation Standing Orders.

⁶ In 2008, a total of 11,827 foreclosure actions were filed statewide. These numbers soared to 27,241 in 2009; dropped to 21,717 in 2010; further declined to 14,782 in 2011; rose to 19,199 in 2012; and reached 21,440 in 2013. These numbers include commercial and residential mortgage foreclosures as well as actions to foreclosure tax or condominium liens.

⁷ General Statutes § 49-31m

⁸ General Statutes §§ 49-31n (b) (2) and 49-31n (c) (2).

⁹ General Statutes §§ 49-31n (b) (2) and 49-31n (c) (2).

requirements. While lenders, homeowners, and mediators all agree that the process takes far too long, it is also indisputable that thousands of homes have been saved from foreclosure to the benefit of both parties.

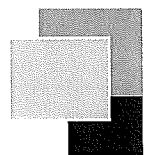
Foreclosure Mediation Program Staff: The Foreclosure Mediation Program currently is staffed by one program manager, 25 mediation specialists serving the state's 14 judicial districts, 9 designated caseload coordinators and 16 office clerks. Mediation specialists are Judicial Branch employees who are trained in mediation and all relevant aspects of the law. They have substantial knowledge of federal and state assistance programs and their respective guidelines, as well as community-based resources in each district. Most are attorneys with many years of mediation experience.

The Foreclosure Mediation Program: Public Act 13-136, effective July 15, 2013, made sweeping changes to Connecticut's mediation process, as summarized, in part, below.

- Participation: The Program continues its opt-in model for homeowner participation, requiring homeowners to file an Appearance and Foreclosure Mediation Certificate demonstrating Program eligibility within 15 days of the case's return date. However, the court can refer a homeowner to the Program at any time for good cause.
- Mediation Period: The mediation period now concludes on the earlier of 7 months from the return date or 3 mediation sessions, although the period can be extended by the court in certain circumstances. Transitional rules also may apply in certain instances to increase the number of sessions allowed.
- Objectives of the Mediation Program: The Program's objectives are to determine if the lender and homeowner can reach an agreement that will either avoid the foreclosure through loss mitigation, or expedite or otherwise facilitate the foreclosure. The parties are expected to pursue these objectives with reasonable speed and efficiency and in good faith without unreasonable and unnecessary delays. Loan servicers are expected to respond with a decision on a homeowner's request for assistance within 35 days of receipt of a complete financial package. If the decision is a denial, the reasons must be explained in writing. If additional information is requested or if the package is incomplete, the servicer is required to request the missing or additional information within a reasonable period of time in writing, and the 35 day response time is extended for a reasonable time.
- Scope: The statute now clarifies that mediation addresses all issues of the foreclosure, including the disposition of the property by other means, including short sales and deeds-in-lieu of foreclosure.
- Premediation Process: Homeowners whose cases have return dates on or after October 1, 2013 are required to participate in a new premediation process. In such

cases, lenders must provide the mediator and the homeowner with forms and other information within 35 days of the return date. Thereafter, the homeowner meets with the assigned mediator who reviews the completed forms and documentation, or assists in its completion. The mediator may refer the homeowner to appropriate community assistance programs and, at the conclusion of premediation, facilitates the delivery of the completed financial package to the lender's attorney. The mediator is required to file a Premediation Report indicating whether mediation with the lender will be scheduled.

- Mediator Reports: Effective July 15, 2013, mediators are required to file a report with the court within 3 business days after each mediation session that is held. A summary of the data collected in the mediator reports is provided later in this report.
- Extensions of the Mediation Period: The court must review all motions or requests to extend the mediation period and rule on the motion or request within 20 days. The mediation period may be extended if the court finds either that (i) a party engaged in a pattern or practice of conduct contrary to the objectives of the mediation program or (ii) it is highly probable that the parties will reach an agreement. An additional extension may be granted, if by agreement of the parties.
- Sanctions: The court may impose sanctions on a party or a party's counsel who engages in intentional, or a pattern or practice of, conduct contrary to the objectives of the mediation program. Sanctions include terminating mediation, ordering the personal appearance of a party, imposing fines, and awarding or disallowing attorneys' fees.



Data Collection Summary

From July 1, 2013 through December 31, 2013

Number of cases in mediation: There were 11,018 cases active in mediation during this period.

Number of mediation sessions held: During the period, 9,971 mediation sessions were held. This number does not include the number of sessions that were scheduled but did not go forward. It also does not include cases with return dates on or after October 1, 2013 since it is unlikely that these cases will have completed premediation. For the few that may have, mediation sessions would be scheduled outside of this reporting period.

Number of agreements reached before the conclusion of the mediation period: In 346 cases, mediators filed final reports during this timeframe indicating a settlement was reached during the mediation period. In an additional 406 cases, mediators reported that settlements were reached during an extended mediation period.

Number of continuance motions filed: A total of 4,701 continuance motions were filed during the period. Of these, 2,171 were filed by the Plaintiff and 2,528 were filed by the defendant. Two were reported as being filed by the Court.

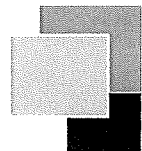
Number of motions to modify the mediation period filed: A total of 8,686 motions were filed. Of these, 1,750 were filed by the plaintiff; 4,631 were filed by the defendant; and 2,305 were requests by the mediator.

Number of loans serviced by third parties: Mediators reported 798 cases where the loan was serviced by a third party.

Number of cases by Judicial District:

<i>Location</i>	<i>Cases</i>	<i>Location</i>	<i>Cases</i>
Ansonia-Milford	732	New Haven	1227
Danbury	724	New Haven at Meriden	62
Fairfield	1371	New London	732
Hartford	1608	Stamford-Norwalk	1201
Litchfield	465	Tolland	302
Middlesex	394	Waterbury	914
New Britain	848	Windham	438

Number of cases where the defendant is a self-represented party: There was at least one self-represented mortgagor in 7,819 of the 11,018 reported cases during the period (71%).



Data Collection Summary

Mediators Reports

From July 15, 2013 through August 15, 2013, mediators filed 2,105 Mediator Reports in paper format in order to comply with the statutory mandate. On August 16, 2013, changes went into effect which permitted the data to be captured and collected electronically. **Accordingly, the data reported below is only for the period August 16, 2013 through December 31, 2013, inclusive.**

1. Did the parties engage in conduct consistent with the objectives of the mediation program?

	Yes	No
Plaintiff:	95%	5%
Defendant:	98%	2%

Did the parties possess the ability to mediate?

	Yes	No
Plaintiff:	95%	5%
Defendant:	98%	2%

2. Did the mortgagor submit a complete financial package to the mortgagee?

Yes	No
64%	36%

3. What foreclosure alternative has the mortgagor requested?

Alternative		Alternative	
loan modification	85%	reinstatement	1.6%
short sale	10%	repayment	1%
deed-in-lieu	2%	modified law day / sale date	0.4%

4. Has the mortgagor been previously evaluated for a similar request?

Yes	28%	No	72%
prior to mediation	70%		
in mediation	63%		
financial circumstances change	59%		

5. Has the mortgagee responded to the mortgagor's request?

Yes*	No	n/a
38%	30%	32%

*(of these, 52% were approved for assistance; 48% were denied)

Is the mediator aware of any reason to disagree with that response?

Yes	No
10%	90%

6. Has the mortgagor responded to the mortgagee's offer on a reasonably timely basis?

<i>Yes</i>	<i>No</i>	<i>n/a</i>
17%	2%	81%

7. Has the mortgagee requested additional information from the mortgagor?

<i>Yes</i>	<i>No</i>
57%	43%

8. Has the mortgagor supplied, on a reasonably timely basis, additional information reasonably requested by the mortgagee?

<i>Yes</i>	<i>No</i>	<i>n/a</i>
52%	6%	42%

9. Is the information provided by the mortgagor still current for the mortgagee's review?

<i>Yes</i>	<i>No</i>
69%	31%

10. Has the mortgagee provided a reasonable explanation of a denial for the foreclosure alternative requested?

<i>Yes</i>	<i>No</i>	<i>n/a</i>
11%	2%	87%

Is the mediator aware of any material reasons to disagree with the denial?

<i>Yes</i>	<i>No</i>
16%	84%

11. Has the mortgagee complied with the statutory time frames for responding to requests for decisions?

<i>Yes</i>	<i>No</i>
93%	7%

12. Did the parties satisfy the expectations set forth in the previous report?

	<i>Yes</i>	<i>No</i>	<i>n/a</i>
Plaintiff:	46%	9%	45%
Defendant:	45%	11%	44%

Is a subsequent mediation session expected to occur?

<i>Yes</i>	<i>No</i>	<i>Don't Know</i>
86%	5%	9%

13. Will the parties benefit from further mediation?

<i>Yes</i>	<i>No</i>
95%	5%



Additional Data Collected

The following data, applicable to this reporting period, pertains to cases which participate in the premediation process.

Number of cases in mediation with return dates from October 1, 2013 through December 31, 2013:

- 960 cases - these cases are required to participate in the premediation process.

Number of FMP 2013 non-compliance events scheduled: An FMP 2013 non-compliance event is scheduled by the FMP caseload coordinator whenever the plaintiff has failed to provide the mediator with the required information within 35 days of the case's return date or where the documentation provided was incomplete.¹⁰

- 570 events were scheduled as a result of plaintiff's statutory non-compliance.

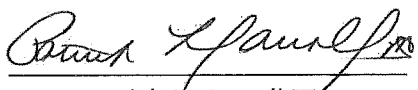
Number of Premediation meetings scheduled:

- 495 premediation meetings scheduled - In cases where plaintiff timely provided the required documentation to the mediator and homeowner, the court

¹⁰ General Statutes § 49-31f (c) (4).

scheduled the first premediation meeting within 49 days of the case's return date.¹¹

Submitted this 14th day of February, 2014

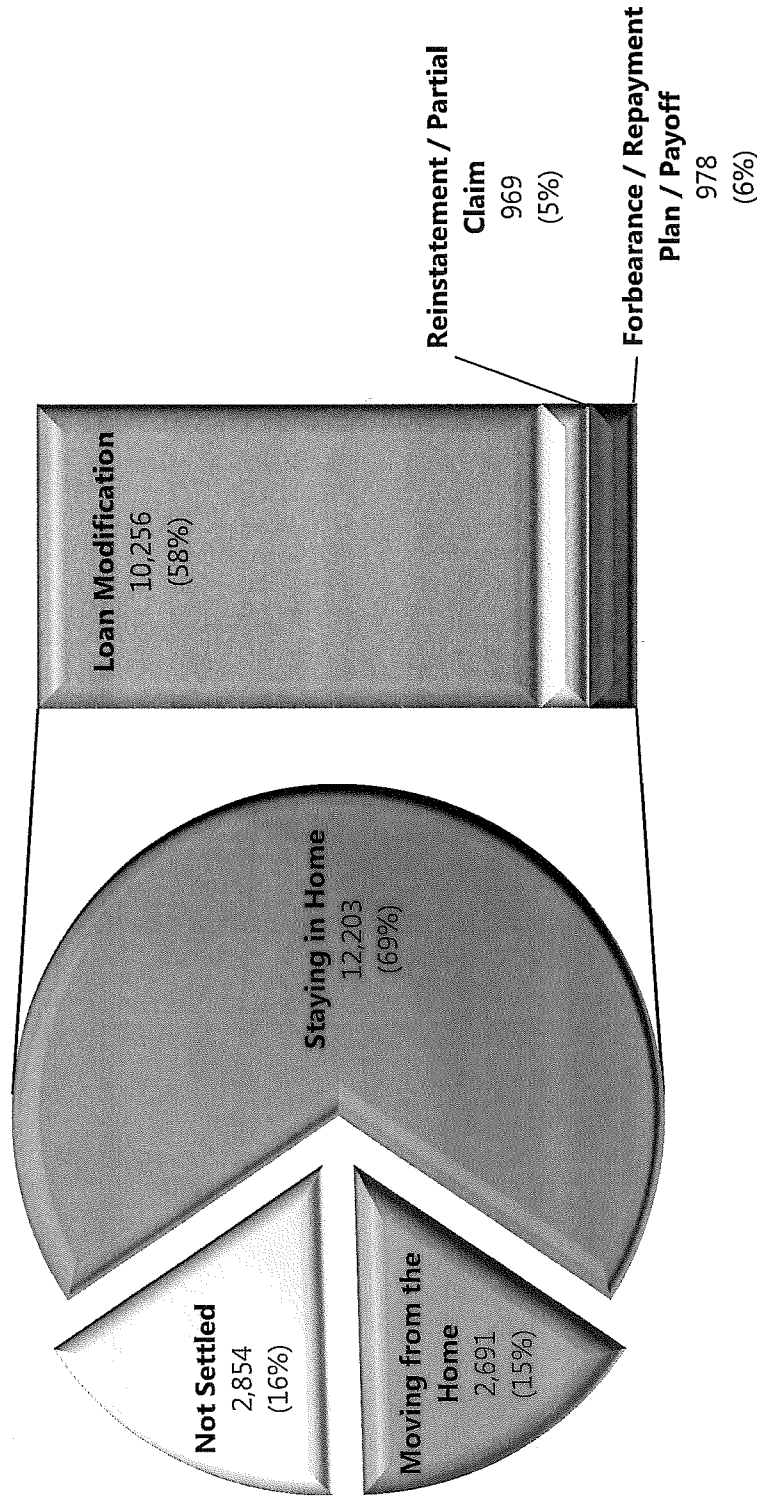
A handwritten signature in black ink, appearing to read "Patrick L. Carroll III", written over a horizontal line.

Hon. Patrick L. Carroll III
Chief Court Administrator

¹¹ General Statutes § 49-31f (c) (4).

Foreclosure Mediation Program (FMP) Results

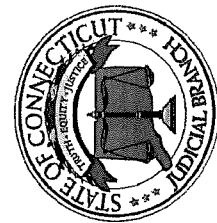
July 1, 2008 through December 31, 2013



STATEWIDE, 17,748 CASES HAVE COMPLETED MEDIATION FROM JULY 1, 2008 THROUGH DECEMBER 31, 2013. THIS CHART ILLUSTRATES THE OUTCOME OF THESE CASES.

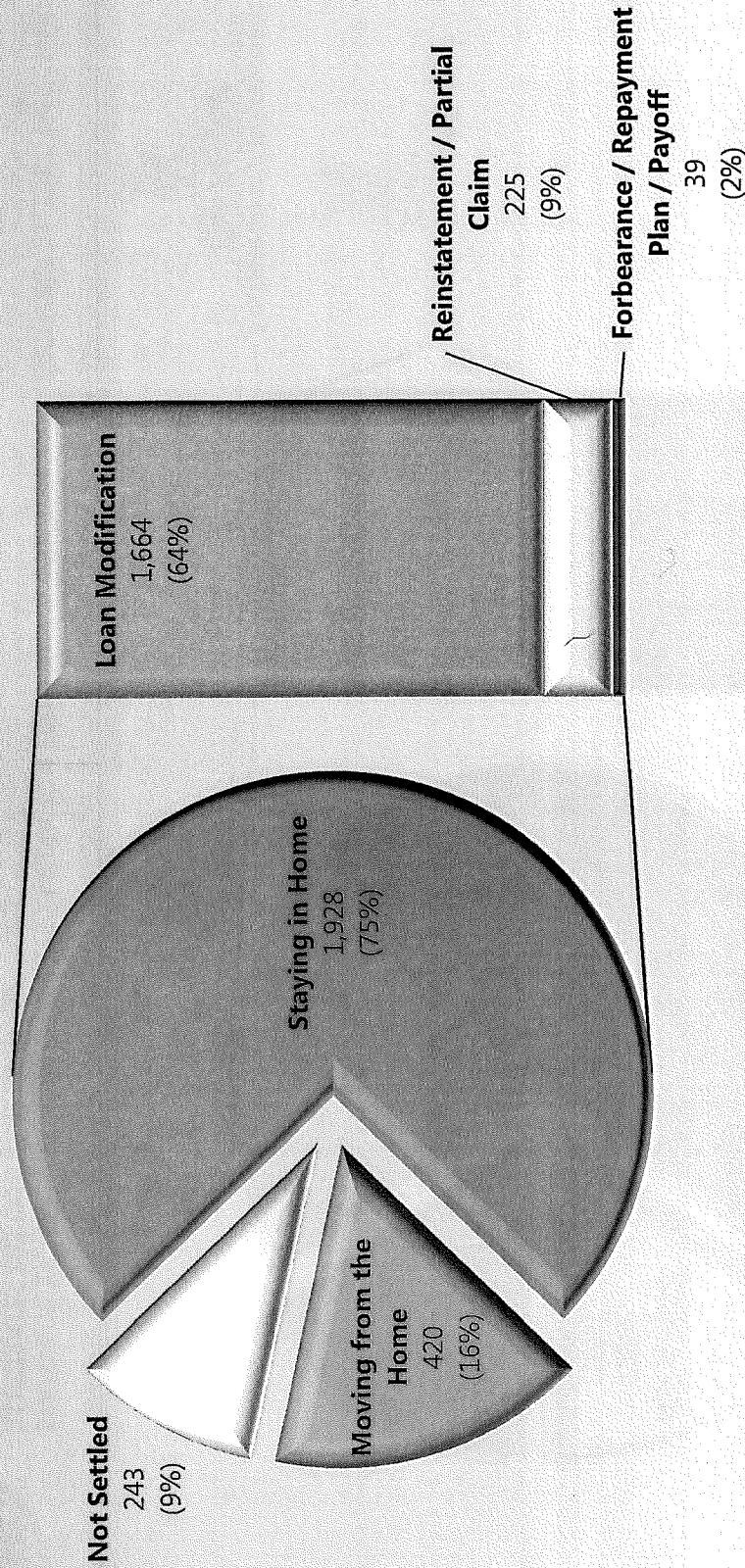
THE CATEGORY "MOVING FROM HOME" INCLUDES AGREEMENTS FOR A SALE, SHORT SALE, A DEED IN LIEU, OR AN EXTENSION OF THE LAW DAY OR SALE DATE.

THE CATEGORIES "MOVING FROM HOME" AND "STAYING IN HOME" WHEN ADDED TOGETHER RESULT IN A **SETTLEMENT RATE OF 84%**.



Foreclosure Mediation Program (FMP) Results

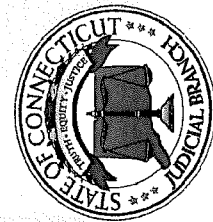
January 1, 2013 through December 31, 2013

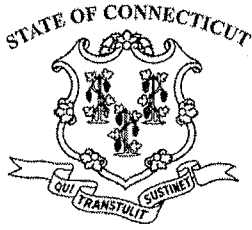


STATEWIDE, 2,591 CASES HAVE COMPLETED MEDIATION FROM JANUARY 1, 2013 THROUGH DECEMBER 31, 2013. THIS CHART ILLUSTRATES THE OUTCOME OF THESE CASES.

THE CATEGORY "MOVING FROM HOME" INCLUDES AGREEMENTS FOR A SALE, SHORT SALE, A DEED IN LIEU, OR AN EXTENSION OF THE LAW DAY OR SALE DATE.

THE CATEGORIES "MOVING FROM HOME" AND "STAYING IN HOME" WHEN ADDED TOGETHER RESULT IN A **SETTLEMENT RATE OF 91%**.





General Assembly

Bill No. 5483

February Session, 2014

01402 _____ HSG*

Introduced by:
(HSG)

**AN ACT MAKING THE FORECLOSURE MEDIATION PROGRAM
PERMANENT**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 49-31l of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) [Prior to July 1, 2014:] (1) Any action for the foreclosure of a
4 mortgage on residential real property with a return date during the
5 period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to
6 the provisions of subsection (b) of this section, and (2) any action for
7 the foreclosure of a mortgage on (A) residential real property with a
8 return date [during the period from] on or after July 1, 2009 [, to June
9 30, 2014, inclusive,] or (B) real property owned by a religious
10 organization with a return date [during the period from] on or after
11 October 1, 2011 [, to June 30, 2014, inclusive,] shall be subject to the
12 provisions of subsection (c) of this section.

13 (b) (1) [Prior to July 1, 2014, when] When a mortgagee commences an
14 action for the foreclosure of a mortgage on residential real property
15 with a return date during the period from July 1, 2008, to June 30, 2009,
16 inclusive, the mortgagee shall give notice to the mortgagor of the
17 foreclosure mediation program established in section 49-31m by
18 attaching to the front of the foreclosure complaint that is served on the

19 mortgagor: (A) A copy of the notice of the availability of foreclosure
20 mediation, in such form as the Chief Court Administrator prescribes,
21 and (B) a foreclosure mediation request form, in such form as the Chief
22 Court Administrator prescribes.

23 (2) Except as provided in subdivision (3) of this subsection, a
24 mortgagor may request foreclosure mediation by submitting the
25 foreclosure mediation request form to the court and filing an
26 appearance not more than fifteen days after the return date for the
27 foreclosure action. Upon receipt of the foreclosure mediation request
28 form, the court shall notify each appearing party that a foreclosure
29 mediation request form has been submitted by the mortgagor.

30 (3) The court may grant a mortgagor permission to submit a
31 foreclosure mediation request form and file an appearance after the
32 fifteen-day period established in subdivision (2) of this subsection, for
33 good cause shown.

34 (4) [No foreclosure mediation request form may be submitted to the
35 court under this subsection on or after July 1, 2014.

36 (5)] If at any time on or after July 1, 2008 [, but prior to July 1, 2014,] the
37 court determines that the notice requirement of subdivision (1) of this
38 subsection has not been met, the court may, upon its own motion or
39 upon the written motion of the mortgagor, issue an order that no
40 judgment may enter for fifteen days during which period the
41 mortgagor may submit a foreclosure mediation request form to the
42 court.

43 [(6)] (5) Notwithstanding any provision of the general statutes or any
44 rule of law to the contrary, [prior to July 1, 2014,] no judgment of strict
45 foreclosure nor any judgment ordering a foreclosure sale shall be
46 entered in any action subject to the provisions of this subsection and
47 instituted by the mortgagee to foreclose a mortgage on residential real
48 property unless: (A) Notice to the mortgagor has been given by the
49 mortgagee in accordance with subdivision (1) of this subsection and
50 the time for submitting a foreclosure mediation request form has

51 expired and no foreclosure mediation request form has been
 52 submitted, or if such notice has not been given, the time for submitting
 53 a foreclosure mediation request form pursuant to subdivision (2) or (3)
 54 of this subsection has expired and no foreclosure mediation request
 55 form has been submitted, or (B) the mediation period set forth in
 56 subdivision (b) of section 49-31n, as amended by the act, has expired or
 57 has otherwise terminated, whichever is earlier.

58 [(7)] (6) None of the mortgagor's or mortgagee's rights in the
 59 foreclosure action shall be waived by the mortgagor's submission of a
 60 foreclosure mediation request form to the court.

61 (c) (1) [Prior to July 1, 2014, when] When a mortgagee commences an
 62 action for the foreclosure of a mortgage on residential real property
 63 with a return date on or after July 1, 2009, or, with respect to real
 64 property owned by a religious organization, a return date on or after
 65 October 1, 2011, the mortgagee shall give notice to the mortgagor of
 66 the foreclosure mediation program established in section 49-31m by
 67 attaching to the front of the writ, summons and complaint that is
 68 served on the mortgagor: (A) A copy of the notice of foreclosure
 69 mediation, in such form as the Chief Court Administrator prescribes,
 70 (B) a copy of the foreclosure mediation certificate form described in
 71 subdivision (3) of this subsection, in such form as the Chief Court
 72 Administrator prescribes, (C) a blank appearance form, in such form as
 73 the Chief Court Administrator prescribes, (D) with respect to an action
 74 for the foreclosure of a mortgage on residential real property with a
 75 return date on or after October 1, 2011, to September 30, 2013,
 76 inclusive, a mediation information form and a notice containing
 77 contact information for authority-approved consumer credit
 78 counseling agencies, which form and notice shall be in such form as
 79 the Chief Court Administrator prescribes, and which form shall be
 80 designed to elicit current financial information and such other
 81 nonfinancial information from the mortgagor as the Chief Court
 82 Administrator, in consultation with representatives from the banking
 83 industry and consumer advocates, determines will further the
 84 objectives of the mediation program. The instructions to the mediation

85 information form shall explain that the completed mediation
86 information form, along with accompanying documentation
87 reasonably requested from the mortgagor by way of such instructions,
88 shall be delivered to the mortgagee's counsel not later than fifteen
89 business days prior to the date of the initial mediation session, as
90 identified in the notice provided pursuant to subdivision (2) of
91 subsection (c) of section 49-31n, as amended by this act, and (E) for an
92 action to foreclose a mortgage on residential real property with a
93 return date on or after October 1, 2013, the mediation information form
94 shall instruct the mortgagor as to the objectives of the mediation
95 program, explain the preliminary process of meeting with the
96 mediator as described in subdivision (4) of this subsection, instruct the
97 mortgagor to begin gathering financial documentation commonly used
98 in foreclosure mediation for use in meeting with the mediator and in
99 mediation, and include a notice containing contact information for
100 authority-approved consumer counseling agencies, which shall be in
101 such form as the Chief Court Administrator prescribes. The content of
102 the mediation information form shall be designed by the Chief Court
103 Administrator in consultation with representatives from the banking
104 industry and consumer advocates.

105 (2) The court shall issue a notice of foreclosure mediation described in
106 subdivision (3) of this subsection to the mortgagor not later than the
107 date three business days after the date the mortgagee returns the writ
108 to the court.

109 (3) The notice of foreclosure mediation shall instruct the mortgagor to
110 file the appearance and foreclosure mediation certificate forms with
111 the court not later than the date fifteen days from the return date for
112 the foreclosure action. With respect to actions with a return date on or
113 after October 1, 2011, to September 30, 2013, inclusive, such notice shall
114 remind the mortgagor to deliver the completed mediation information
115 form and the accompanying documentation described in subdivision
116 (1) of this subsection and encourage such delivery in advance of the
117 required date. With respect to actions with a return date on or after
118 October 1, 2013, [to June 30, 2014, inclusive,] such notice shall instruct

119 the mortgagor to begin gathering financial information commonly
120 used in foreclosure mediation for use in meeting with the mediator
121 and in mediation. The mediation information form and accompanying
122 documentation shall not, without the explicit written instruction of the
123 mortgagor, be publicly available. Such notice of foreclosure mediation
124 shall be accompanied by materials from the Department of Banking, as
125 prescribed by the Chief Court Administrator, which shall describe the
126 community-based resources available to the mortgagor, including
127 authority-approved housing counseling agencies that may assist with
128 preparation for mediation and application for mortgage assistance
129 programs. The foreclosure mediation certificate form shall require the
130 mortgagor to provide sufficient information to permit the court to
131 confirm that the defendant in the foreclosure action is a mortgagor,
132 and to certify that said mortgagor has sent a copy of the mediation
133 certificate form to the plaintiff in the action.

134 (4) Upon receipt of the mortgagor's appearance and foreclosure
135 mediation certificate forms, and provided the court confirms the
136 defendant in the foreclosure action is a mortgagor and that said
137 mortgagor has sent a copy of the mediation certificate form to the
138 plaintiff, the court shall assign the case to mediation and issue notice of
139 such assignment to all appearing parties, which notice shall include an
140 electronic mail address for all communications related to the
141 mediation. The court shall issue such notice not earlier than the date
142 five business days after the return date or by the date three business
143 days after the date on which the court receives the mortgagor's
144 appearance and foreclosure mediation certificate forms, whichever is
145 later, except that if the court does not receive the appearance and
146 foreclosure mediation certificate forms from the mortgagor by the date
147 fifteen days after the return date for the foreclosure action, the court
148 shall not assign the case to mediation. Promptly upon receipt of the
149 notice of assignment, but not later than the thirty-fifth day following
150 the return date, the mortgagee or its counsel shall deliver to the
151 mediator, via the electronic mail address provided for communications
152 related to the mediation, and to the mortgagor, via first class, priority

153 or overnight mail, (A) an account history identifying all credits and
154 debits assessed to the loan account and any related escrow account in
155 the immediately preceding twelve-month period and an itemized
156 statement of the amount required to reinstate the mortgage loan with
157 accompanying information, written in plain language, to explain any
158 codes used in the history and statement which are not otherwise self-
159 explanatory, (B) the name, business mailing address, electronic mail
160 address, facsimile number and direct telephone number of an
161 individual able to respond with reasonable adequacy and promptness
162 to questions relative to the information submitted to the mediator
163 pursuant to this subdivision, and any subsequent updates to such
164 contact information, which shall be provided reasonably promptly to
165 the mediator via the electronic mail address provided for
166 communication related to the mediation, (C) all reasonably necessary
167 forms and a list of all documentation reasonably necessary for the
168 mortgagee to evaluate the mortgagor for common alternatives to
169 foreclosure that are available through the mortgagee, if any, (D) a copy
170 of the note and mortgage, (E) summary information regarding the
171 status of any pending foreclosure avoidance efforts being undertaken
172 by the mortgagee, (F) a copy of any loss mitigation affidavit filed with
173 the court, and (G) at the mortgagee's option, (i) the history of
174 foreclosure avoidance efforts with respect to the mortgagor, (ii)
175 information regarding the condition of mortgaged property, and (iii)
176 such other information as the mortgagee may determine is relevant to
177 meeting the objectives of the mediation program. Following the
178 mediator's receipt of such information, the court shall assign a
179 mediator to the mediation and schedule a meeting with the mediator
180 and the mortgagor and shall endeavor to schedule such meeting on or
181 prior to the forty-ninth day following the return date. The notice of
182 such meeting shall instruct the mortgagor to complete the forms prior
183 to the meeting and to furnish such forms together with the
184 documentation contained in the list, as provided by the mortgagee
185 following the filing of the foreclosure mediation certificate, at the
186 meeting. At such meeting, the mediator shall review such forms and
187 documentation with the mortgagor, along with the information

188 supplied by the mortgagee, in order to discuss the options that may be
189 available to the mortgagor, including any community-based resources,
190 and assist the mortgagor in completing the forms and furnishing the
191 documentation necessary for the mortgagee to evaluate the mortgagor
192 for alternatives to foreclosure. The mediator may elect to schedule
193 subsequent meetings with the mortgagor and determine whether any
194 mortgagor may be excused from an in-person appearance at such
195 subsequent meeting. As soon as practicable, but in no case later than
196 the eighty-fourth day following the return date, the mediator shall
197 facilitate and confirm the submission by the mortgagor of the forms
198 and documentation to the mortgagee's counsel via electronic means
199 and, at the mortgagee's election, directly to the mortgagee per the
200 mortgagee's instruction, and determine, based on the mortgagor's
201 attendance at the meetings and the extent the mortgagor completed the
202 forms and furnished the documentation contemplated in this
203 subdivision, or failed to perform such tasks through no material fault
204 of the mortgagee, and file a report with the court indicating, (I)
205 whether mediation shall be scheduled with the mortgagee, (II) whether
206 the mortgagor attended scheduled meetings with the mediator, (III)
207 whether the mortgagor fully or substantially completed the forms and
208 furnished the documentation requested by the mortgagee, (IV) the
209 date on which the mortgagee supplied the forms and documentation,
210 and (V) any other information the mediator determines to be relevant
211 to the objectives of the mediation program. No meeting or
212 communication between the mediator and mortgagor under this
213 subdivision shall be treated as an impermissible ex parte
214 communication. If the mediator determines that the mortgagee shall
215 participate in mediation, the court shall promptly issue notice to all
216 parties of such determination and schedule a mediation session
217 between the mortgagee and mortgagor in accordance with subsection
218 (c) of section 49-31n, as amended by this act, to be held not later than
219 five weeks following the submission to the mortgagee of the forms and
220 documentation contemplated in this subdivision. If the mediator
221 determines that no sessions between the mortgagee and mortgagor
222 shall be scheduled, the court shall promptly issue notice to all parties

223 regarding such determination and mediation shall be terminated. Any
224 mortgagor wishing to contest such determination shall petition the
225 court and show good cause for reinclusion in the mediation program,
226 including, but not limited to, a material change in financial
227 circumstances or a mistake or misunderstanding of the facts by the
228 mediator.

229 (5) Notwithstanding the provisions of this subsection, the court may
230 refer a foreclosure action brought by a mortgagee to the foreclosure
231 mediation program at any time, for good cause shown, provided the
232 mortgagor has filed an appearance in said action and further provided
233 the court shall, not later than the date three business days after the date
234 on which it makes such referral, send a notice to each appearing party
235 assigning the case to mediation and requiring the parties to participate
236 in the premediation process described in subdivision (4) of this
237 subsection, with the court establishing deadlines to ensure that the
238 premediation process is to be completed by the parties as
239 expeditiously as the circumstances warrant and permit. When
240 determining whether good cause exists, the court shall consider
241 whether the parties are likely to benefit from mediation and, in the
242 case of a referral after prior attempts at mediation have been
243 terminated, whether there has been a material change in
244 circumstances.

245 (6) Notwithstanding any provision of the general statutes or any rule
246 of law, [prior to July 1, 2014,] (A) for the period of time which shall not
247 exceed eight months from the return date, the mortgagor shall be
248 permitted to file an answer, special defenses or counterclaims, but no
249 mortgagee or mortgagor shall make any motion, request or demand
250 with respect to the other, except those motions, requests or demands
251 that relate to the mediation program described in section 49-31m and
252 the mediation sessions held pursuant to such program, provided (i) a
253 mortgagor seeking to contest the court's jurisdiction may file a motion
254 to dismiss and the mortgagee may object to such motion to dismiss in
255 accordance with applicable law and the rules of the courts, and (ii) if
256 the mortgagor elects to make any other motion, request or demand

257 with respect to the mortgagee, the eight-month limit shall no longer
 258 apply to either party; and (B) no judgment of strict foreclosure nor any
 259 judgment ordering a foreclosure sale shall be entered in any action
 260 subject to the provisions of this subsection and instituted by the
 261 mortgagee to foreclose a mortgage on residential real property or real
 262 property owned by a religious organization unless: (i) The mediation
 263 period set forth in subsection (c) of section 49-31n, as amended by this
 264 act, has expired or has otherwise terminated, whichever is earlier, and,
 265 if fewer than eight months has elapsed from the return date at the time
 266 of termination, fifteen days have elapsed since such termination and
 267 any pending motion or request to extend the mediation period has
 268 been heard and denied by the court, or (ii) the mediation program is
 269 not otherwise required or available. Nothing in this subdivision shall
 270 affect any motion made or any default or judgment entered on or
 271 before June 30, 2011.

272 (7) With respect to foreclosure actions with a return date on or after
 273 July 1, 2011[, to June 30, 2014, inclusive], notwithstanding any
 274 provision of the general statutes or any rule of law to the contrary, the
 275 mortgagee shall be permitted following the eight-month or fifteen-day
 276 period described in subdivision (6) of this subsection, to
 277 simultaneously file, as applicable, (A) a motion for default, and (B) a
 278 motion for judgment of strict foreclosure or a motion for judgment of
 279 foreclosure by sale with respect to the mortgagor in the foreclosure
 280 action.

281 (8) None of the mortgagor's or mortgagee's rights in the foreclosure
 282 action shall be waived by participation in the foreclosure mediation
 283 program.

284 Section 2. Section 49-31n of the general statutes is repealed and the
 285 following is substituted in lieu thereof (*Effective from passage*):

286 (a) [Prior to July 1, 2014:] (1) Any action for the foreclosure of a
 287 mortgage on residential real property with a return date during the
 288 period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to

289 the provisions of subsection (b) of this section, and (2) any action for
290 the foreclosure of a mortgage on (A) residential real property with a
291 return date [during the period from] on or after July 1, 2009 [, to June
292 30, 2014, inclusive,] or (B) real property owned by a religious
293 organization with a return date [during the period from] on or after
294 October 1, 2011 [, to June 30, 2014, inclusive,] shall be subject to the
295 provisions of subsection (c) of this section.

296 (b) (1) For any action for the foreclosure of a mortgage on residential
297 real property with a return date during the period from July 1, 2008, to
298 June 30, 2009, inclusive, the mediation period under the foreclosure
299 mediation program established in section 49-31m shall commence
300 when the court sends notice to each appearing party that a foreclosure
301 mediation request form has been submitted by a mortgagor to the
302 court, which notice shall be sent not later than three business days after
303 the court receives a completed foreclosure mediation request form. The
304 mediation period shall conclude not later than the conclusion of the
305 third mediation session between the mortgagor and mortgagee or
306 seven months after the return date, whichever is earlier, except that the
307 court may, in its discretion, for good cause shown, upon the motion of
308 any party or the mediator, (A) extend the mediation period subject to
309 the provisions of subdivision (9) of this subsection or shorten the
310 mediation period.

311 (2) The first mediation session shall be held not later than fifteen
312 business days after the court sends notice to all parties that a
313 foreclosure mediation request form has been submitted to the court.
314 The mortgagor and mortgagee shall appear in person at each
315 mediation session and shall have the ability to mediate, except that (A)
316 if a party is represented by counsel, the party's counsel may appear in
317 lieu of the party to represent the party's interests at the mediation,
318 provided the party has the ability to mediate, the mortgagor attends
319 the first mediation session in person, and the party is available (i)
320 during the mediation session by telephone, and (ii) to participate in the
321 mediation session by speakerphone, provided an opportunity is
322 afforded for confidential discussions between the party and party's

323 counsel, (B) following the initial mediation session, if there are two or
324 more mortgagors who are self-represented, only one mortgagor shall
325 be required to appear in person at each subsequent mediation session
326 unless good cause is shown, provided the other mortgagors are
327 available (i) during the mediation session, and (ii) to participate in the
328 mediation session by speakerphone, and (C) if a party suffers from a
329 disability or other significant hardship that imposes an undue burden
330 on such party to appear in person, the mediator may grant permission
331 to such party to participate in the mediation session by telephone. A
332 mortgagor's spouse, who is not a mortgagor but who lives in the
333 subject property, may appear at each mediation session, provided all
334 appearing mortgagors consent, in writing, to such spouse's appearance
335 or such spouse shows good cause for his or her appearance and the
336 mortgagors consent in writing to the disclosure of nonpublic personal
337 information to such spouse. If the mortgagor has submitted a complete
338 package of financial documentation in connection with a request for a
339 particular foreclosure alternative, the mortgagee shall have thirty-five
340 days from the receipt of the completed package to respond with a
341 decision and, if the decision is a denial of the request, provide the
342 reasons for such denial. If the mortgagor has, in connection with a
343 request for a foreclosure alternative, submitted a financial package that
344 is not complete, or if the mortgagee's evaluation of a complete package
345 reveals that additional information is necessary to underwrite the
346 request, the mortgagee shall request the missing or additional
347 information within a reasonable period of time of such evaluation. If
348 the mortgagee's evaluation of a complete package reveals that
349 additional information is necessary to underwrite the request, the
350 thirty-five-day deadline for a response shall be extended but only for
351 so long as is reasonable given the timing of the mortgagor's
352 submission of such additional information and the nature and context
353 of the required underwriting. Not later than the third business day
354 after each mediation session held on or after June 18, 2013, the
355 mediator shall file with the court a report indicating, to the extent
356 applicable, (i) the extent to which each of the parties complied with the
357 requirements set forth in this subdivision, including the requirement to

358 engage in conduct that is consistent with the objectives of the
359 mediation program and to possess the ability to mediate, (ii) whether
360 the mortgagor submitted a complete package of financial
361 documentation to the mortgagee, (iii) a general description of the
362 foreclosure alternative being requested by the mortgagor, (iv) whether
363 the mortgagor has previously been evaluated for similar requests,
364 whether prior to mediation or in mediation, and, if so, whether there
365 has been any apparent change in circumstances since a decision was
366 made with respect to that prior evaluation, (v) whether the mortgagee
367 has responded to the mortgagor's request for a foreclosure alternative
368 and, if so, a description of the response and whether the mediator is
369 aware of any material reason not to agree with the response, (vi)
370 whether the mortgagor has responded to an offer made by the
371 mortgagee on a reasonably timely basis, and if so, an explanation of
372 the response, (vii) whether the mortgagee has requested additional
373 information from the mortgagor and, if so, the stated reasons for the
374 request and the date by which such additional information shall be
375 submitted so that information previously submitted by the mortgagor,
376 to the extent possible, may still be used by the mortgagee in
377 conducting its review, (viii) whether the mortgagor has supplied, on a
378 reasonably timely basis, any additional information that was
379 reasonably requested by the mortgagee, and, if not, the stated reason
380 for not doing so, (ix) if information provided by the mortgagor is no
381 longer current for purposes of evaluating a foreclosure alternative, a
382 description of the out-of-date information and an explanation as to
383 how and why such information is no longer current, (x) whether the
384 mortgagee has provided a reasonable explanation of the basis for a
385 decision to deny a request for a loss mitigation option or foreclosure
386 alternative and whether the mediator is aware of any material reason
387 not to agree with that decision, (xi) whether the mortgagee has
388 complied with the time frames set forth in this subdivision for
389 responding to requests for decisions, (xii) if a subsequent mediation
390 session is expected to occur, a general description of the expectations
391 for such subsequent session and for the parties prior to such
392 subsequent session and, if not otherwise addressed in the report,

393 whether the parties satisfied the expectations set forth in previous
394 reports, and (xiii) a determination of whether the parties will benefit
395 from further mediation. The mediator shall deliver a copy of such
396 report to each party to the mediation when the mediator files the
397 report. The parties shall have the opportunity to submit their own
398 supplemental information following the filing of the report, provided
399 such supplemental information shall be submitted not later than five
400 business days following the receipt of the mediator's report. Any
401 request by the mortgagee to the mortgagor for additional or updated
402 financial documentation shall be made in writing. The court may
403 impose sanctions on any party or on counsel to a party if such party or
404 such counsel engages in intentional or a pattern or practice of conduct
405 during the mediation process that is contrary to the objectives of the
406 mediation program. Any sanction that is imposed shall be
407 proportional to the conduct and consistent with the objectives of the
408 mediation program. Available sanctions shall include, but not be
409 limited to, terminating mediation, ordering the mortgagor or
410 mortgagee to mediate in person, forbidding the mortgagee from
411 charging the mortgagor for the mortgagee's attorney's fees, awarding
412 attorney's fees, and imposing fines. In the case of egregious
413 misconduct, the sanctions shall be heightened. The court shall not
414 award attorney's fees to any mortgagee for time spent in any
415 mediation session if the court finds that such mortgagee has failed to
416 comply with this subdivision, unless the court finds reasonable cause
417 for such failure.

418 (3) If the mediator reports to the court that the parties will not benefit
419 from further mediation, the mediation period shall terminate
420 automatically. If the mediator reports to the court after the first or
421 second mediation session that the parties may benefit from further
422 mediation, the mediation period shall continue.

423 (4) If the mediation period concludes and certain issues have not been
424 resolved pursuant to the mediation, the mediator may refer the
425 mortgagor to any appropriate community-based services that are
426 available.

427 (5) The Chief Court Administrator shall establish policies and
428 procedures to implement this subsection. Such policies and procedures
429 shall, at a minimum, provide that the mediator shall advise the
430 mortgagor at the first meeting required by subdivision (4) of
431 subsection (c) of section 49-31l, as amended by this act, that a judgment
432 of strict foreclosure or foreclosure by sale may cause the mortgagor to
433 lose the residential real property to foreclosure.

434 (6) In no event shall any determination issued by a mediator under this
435 program form the basis of an appeal of any foreclosure judgment.

436 (7) [Foreclosure mediation request forms shall not be accepted by the
437 court under this subsection on or after July 1, 2014, and the foreclosure
438 mediation program shall terminate when all mediation has concluded
439 with respect to any applications submitted to the court prior to July 1,
440 2014.

441 (8)] At any time during the mediation period, the mediator may refer a
442 mortgagor who is the owner-occupant of one-to-four family residential
443 real property to the mortgage assistance programs, except that any
444 such referral shall not prevent a mortgagee from proceeding to
445 judgment when the conditions specified in subdivision (6) of
446 subsection (b) of section 49-31l, as amended by this act, have been
447 satisfied.

448 [(9)] (8) (A) The mediation period shall conclude following the third
449 mediation session or if more than seven months have elapsed since the
450 return date. Not later than fifteen days following the conclusion of the
451 mediation period, and any extended mediation sessions held in
452 accordance with this subdivision, any party may move for, or the
453 mediator may request, an extension of the mediation period. The court
454 shall grant only one additional mediation session per motion or
455 request upon a finding that it is highly probable the parties will reach
456 an agreement through mediation. The court may also grant one
457 additional mediation session per motion or request upon a finding that
458 any party has engaged, either intentionally or by a pattern or practice,

459 in conduct that is contrary to the objectives of the mediation program.
460 The court shall make its ruling not later than twenty days after the
461 filing of such motion or request, and no judgment of strict foreclosure
462 or any judgment ordering a foreclosure sale shall be entered until (i)
463 the court denies the motion or request, or (ii) the conclusion of the
464 extended mediation session, except as provided in subparagraph (B) of
465 this subdivision. Upon the grant of an additional mediation session
466 following the proper finding, the court shall establish an expeditious
467 deadline for such extended mediation session to occur. Such extended
468 mediation period shall conclude following such extended mediation
469 session.

470 (B) The mediation period may be extended for one additional
471 mediation session without a hearing held pursuant to this subdivision
472 provided all parties to the mediation agree that such parties would
473 benefit from such a session and, in consultation with the mediator,
474 establish an expeditious deadline for such session to take place.

475 (C) To determine whether to extend mediation, the court may consider
476 all matters that have arisen in the mediation, including, but not limited
477 to, the number of motions to extend mediation, the reasons for which
478 an agreement has not been reached, the objectives of the mediation
479 program, the extent to which the parties will benefit from further
480 mediation, the reports submitted by the mediator, papers submitted in
481 connection with any motion, and any supplemental reports submitted
482 by a party. The court shall articulate its reasons in the order granting
483 or denying any such motion or request to extend mediation.

484 [(10)] (9) For any case pending as of October 1, 2013, in which
485 mediation is ongoing, (A) if three or fewer sessions have been held,
486 such case shall be treated as if no sessions have been held as of said
487 date for purposes of subdivision (9) of this subsection, and (B) if four
488 or more sessions have been held, then any party or the mediator may
489 move to terminate the mediation period or extend such period in
490 accordance with subdivision (9) of this subsection and, if no such

491 motion to extend is made, the mediation period shall conclude after
492 the third mediation session occurring after October 1, 2013.

493 (c) (1) For any action for the foreclosure of a mortgage on residential
494 real property with a return date [during the period from] on or after
495 July 1, 2009 [, to June 30, 2014, inclusive,] or for any action for the
496 foreclosure of a mortgage on real property owned by a religious
497 organization with a return date [during the period from] on or after
498 October 1, 2011 [, to June 30, 2014, inclusive,] the mediation period
499 under the foreclosure mediation program established in section 49-
500 31m shall commence when the court sends notice to each appearing
501 party scheduling the first foreclosure mediation session. The mediation
502 period shall conclude not later than the conclusion of the third
503 mediation session between the mortgagor and mortgagee or seven
504 months after the return date, whichever is earlier, except that the court
505 may, in its discretion, for good cause shown, upon the motion of any
506 party or request by the mediator, extend the mediation period subject
507 to the provisions of subdivision (9) of this subsection or shorten the
508 mediation period.

509 (2) The mortgagor and mortgagee shall appear in person at each
510 mediation session and shall have the ability to mediate, except that (A)
511 if a party is represented by counsel, the party's counsel may appear in
512 lieu of the party to represent the party's interests at the mediation,
513 provided the party has the ability to mediate, the mortgagor attends
514 the first mediation session in person and the party is available (i)
515 during the mediation session by telephone, and (ii) to participate in the
516 mediation session by speakerphone, provided an opportunity is
517 afforded for confidential discussions between the party and party's
518 counsel, (B) following the initial mediation session, if there are two or
519 more mortgagors who are self-represented, only one mortgagor shall
520 be required to appear in person at each subsequent mediation session
521 unless good cause is shown, provided the other mortgagors are
522 available (i) during the mediation session, and (ii) to participate in the
523 mediation session by speakerphone, and (C) if a party suffers from a
524 disability or other significant hardship that imposes an undue burden

525 on such party to appear in person, the mediator may grant permission
526 to such party to participate in the mediation session by telephone. A
527 mortgagor's spouse, who is not a mortgagor but who lives in the
528 subject property, may appear at each mediation session, provided all
529 appearing mortgagors consent, in writing, to such spouse's appearance
530 or such spouse shows good cause for his or her appearance and the
531 mortgagors consent, in writing, to the disclosure of nonpublic personal
532 information to such spouse. If the mortgagor has submitted a complete
533 package of financial documentation in connection with a request for a
534 particular foreclosure alternative, the mortgagee shall have thirty-five
535 days from the receipt of the completed package to respond with a
536 decision and, if the decision is a denial of the request, provide the
537 reasons for such denial. If the mortgagor has, in connection with a
538 request for a foreclosure alternative, submitted a financial package that
539 is not complete, or if the mortgagee's evaluation of a complete package
540 reveals that additional information is necessary to underwrite the
541 request, the mortgagee shall request the missing or additional
542 information within a reasonable period of time of such evaluation. If
543 the mortgagee's evaluation of a complete package reveals that
544 additional information is necessary to underwrite the request, the
545 thirty-five-day deadline for a response shall be extended but only for
546 so long as is reasonable given the timing of the mortgagor's
547 submission of such additional information and the nature and context
548 of the required underwriting. Not later than the third business day
549 after each mediation session, the mediator shall file with the court a
550 report indicating, to the extent applicable, (i) the extent to which each
551 of the parties complied with the requirements set forth in this
552 subdivision, including the requirement to engage in conduct that is
553 consistent with the objectives of the mediation program and to possess
554 the ability to mediate, (ii) whether the mortgagor submitted a complete
555 package of financial documentation to the mortgagee, (iii) a general
556 description of the foreclosure alternative being requested by the
557 mortgagor, (iv) whether the mortgagor has previously been evaluated
558 for similar requests, whether prior to mediation or in mediation, and, if
559 so, whether there has been any apparent change in circumstances since

560 a decision was made with respect to that prior evaluation, (v) whether
561 the mortgagee has responded to the mortgagor's request for a
562 foreclosure alternative and, if so, a description of the response and
563 whether the mediator is aware of any material reason not to agree with
564 the response, (vi) whether the mortgagor has responded to an offer
565 made by the mortgagee on a reasonably timely basis, and if so, an
566 explanation of the response, (vii) whether the mortgagee has requested
567 additional information from the mortgagor and, if so, the stated
568 reasons for the request and the date by which such additional
569 information shall be submitted so that information previously
570 submitted by the mortgagor, to the extent possible, may still be used
571 by the mortgagee in conducting its review, (viii) whether the
572 mortgagor has supplied, on a reasonably timely basis, any additional
573 information that was reasonably requested by the mortgagee, and, if
574 not, the stated reason for not doing so, (ix) if information provided by
575 the mortgagor is no longer current for purposes of evaluating a
576 foreclosure alternative, a description of the out-of-date information
577 and an explanation as to how and why such information is no longer
578 current, (x) whether the mortgagee has provided a reasonable
579 explanation of the basis for a decision to deny a request for a loss
580 mitigation option or foreclosure alternative and whether the mediator
581 is aware of any material reason not to agree with that decision, (xi)
582 whether the mortgagee has complied with the time frames set forth in
583 this subdivision for responding to requests for decisions, (xii) if a
584 subsequent mediation session is expected to occur, a general
585 description of the expectations for such subsequent session and for the
586 parties prior to such subsequent session and, if not otherwise
587 addressed in the report, whether the parties satisfied the expectations
588 set forth in previous reports, and (xiii) a determination of whether the
589 parties will benefit from further mediation. The mediator shall deliver
590 a copy of such report to each party to the mediation when the mediator
591 files the report. The parties shall have the opportunity to submit their
592 own supplemental information following the filing of the report,
593 provided such supplemental information shall be submitted not later
594 than five business days following the receipt of the mediator's report.

595 Any request by the mortgagee to the mortgagor for additional or
596 updated financial documentation shall be made in writing. The court
597 may impose sanctions on any party or on counsel to a party if such
598 party or such counsel engages in intentional or a pattern or practice of
599 conduct during the mediation process that is contrary to the objectives
600 of the mediation program. Any sanction that is imposed shall be
601 proportional to the conduct and consistent with the objectives of the
602 mediation program. Available sanctions shall include, but not be
603 limited to, terminating mediation, ordering the mortgagor or
604 mortgagee to mediate in person, forbidding the mortgagee from
605 charging the mortgagor for the mortgagee's attorney's fees, awarding
606 attorney's fees, and imposing fines. In the case of egregious
607 misconduct, the sanctions shall be heightened. The court shall not
608 award attorney's fees to any mortgagee for time spent in any
609 mediation session if the court finds that such mortgagee has failed to
610 comply with this subdivision, unless the court finds reasonable cause
611 for such failure.

612 (3) If the mediator reports to the court that the parties will not benefit
613 from further mediation, the mediation period shall terminate
614 automatically. If the mediator reports to the court after the first or
615 second mediation session that the parties may benefit from further
616 mediation, the mediation period shall continue.

617 (4) If the mediation period concludes and certain issues have not been
618 resolved pursuant to the mediation, the mediator may refer the
619 mortgagor to any appropriate community-based services that are
620 available in the judicial district, but any such referral shall not cause a
621 delay in the mediation process.

622 (5) The Chief Court Administrator shall establish policies and
623 procedures to implement this subsection. Such policies and procedures
624 shall, at a minimum, provide that the mediator shall advise the
625 mortgagor at the first meeting required by subdivision (4) of
626 subsection (c) of section 49-311, as amended by this act, that: (A) Such
627 mediation does not suspend the mortgagor's obligation to respond to

628 the foreclosure action beyond the limited time frame described in
629 subdivision (6) of subsection (c) of section 49-31l, as amended by this
630 act; and (B) a judgment of strict foreclosure or foreclosure by sale may
631 cause the mortgagor to lose the residential real property or real
632 property owned by a religious organization to foreclosure.

633 (6) In no event shall any determination issued by a mediator under this
634 program form the basis of an appeal of any foreclosure judgment.

635 (7) [The foreclosure mediation program shall terminate when all
636 mediation has concluded with respect to any foreclosure action with a
637 return date during the period from July 1, 2009, to June 30, 2014,
638 inclusive.

639 (8)] At any time during the mediation period, the mediator may refer a
640 mortgagor who is the owner-occupant of one-to-four family residential
641 real property to the mortgage assistance programs, except that any
642 such referral shall not prevent a mortgagee from proceeding to
643 judgment when the conditions specified in subdivision (6) of
644 subsection (c) of section 49-31l, as amended by this act, have been
645 satisfied.

646 ~~[(9)]~~(8) (A) The mediation period shall conclude following the third
647 mediation session or if more than seven months have elapsed since the
648 return date. Not later than fifteen days following the conclusion of the
649 mediation period, and any subsequent extended mediation sessions
650 held in accordance with this subdivision, any party may move for, or
651 the mediator may request, an extension of the mediation period. The
652 court shall grant only one additional mediation session per motion or
653 request upon a finding that it is highly probable the parties will reach
654 an agreement through mediation. The court may also grant one
655 additional mediation session per motion or request upon a finding that
656 any party has engaged, either intentionally or by a pattern or practice,
657 in conduct that is contrary to the objectives of the mediation program.
658 The court shall make its ruling not later than twenty days after the
659 filing of such motion or request, and no judgment of strict foreclosure

660 or any judgment ordering a foreclosure sale shall be entered until (i)
661 the court denies the motion or request, or (ii) the conclusion of the
662 subsequent extended mediation session, except as provided in
663 subparagraph (B) of this subdivision. Upon the grant of an additional
664 mediation session following the proper finding, the court shall
665 establish a reasonably expeditious deadline for such subsequent
666 extended mediation session to occur. Such extended mediation period
667 shall conclude following such subsequent extended mediation session.

668 (B) The mediation period may be extended for one additional
669 mediation session without a hearing held pursuant to this subdivision
670 provided all parties to the mediation agree that such parties would
671 benefit from such a session and, in consultation with the mediator,
672 establish a reasonably expeditious deadline for such session to take
673 place.

674 (C) To determine whether to extend mediation, the court may consider
675 all matters that have arisen in the mediation, including, but not limited
676 to, the number of motions to extend mediation, the reasons for which
677 an agreement has not been reached, the objectives of the mediation
678 program, the extent to which the parties will benefit from further
679 mediation, the reports submitted by the mediator, papers submitted in
680 connection with any motion, and any supplemental reports submitted
681 by a party. The court shall articulate its reasons in the order granting
682 or denying any such motion or request to extend mediation.

683 [(10)] (9) For any case pending as of October 1, 2013, in which
684 mediation is ongoing, (A) if three or fewer sessions have been held,
685 such case shall be treated as if no sessions have been held as of said
686 date for purposes of subdivision (9) of this subsection, and (B) if four
687 or more sessions have been held, then any party or the mediator may
688 move to terminate the mediation period or extend such period in
689 accordance with subdivision (9) of this subsection and, if no such
690 motion to extend is made, the mediation period shall conclude after
691 the third mediation session occurring after October 1, 2013.

692 (d) (1) Not later than February 14, 2014, the Chief Court Administrator
 693 shall submit, in accordance with the provisions of section 11-4a, to the
 694 joint standing committee of the General Assembly having cognizance
 695 of matters relating to banks and housing, a summary regarding the
 696 mediation program and a general summary of the data collected in the
 697 reports submitted pursuant to subdivision (2) of subsections (b) and (c)
 698 of this section from July 1, 2013, to December 31, 2013, inclusive. Such
 699 summaries shall include, but not be limited to, the aggregate data
 700 regarding the number of cases in mediation, the number of mediation
 701 sessions held, the number of agreements reached before the conclusion
 702 of the mediation period, the number of motions or requests for an
 703 extension or continuance and the identity of the party that made such a
 704 motion or request, whether the loan at issue was serviced by a third
 705 party, the judicial district in which the mediation took place and
 706 whether the mortgagor was self-represented.

707 (2) Not later than February 14, 2015, the Chief Court Administrator
 708 shall submit, in accordance with the provisions of section 11-4a, to the
 709 joint standing committee of the General Assembly having cognizance
 710 of matters relating to banks and housing, a summary of the reports
 711 submitted from July 1, 2013, to December 31, 2014, inclusive, pursuant
 712 to subdivision (2) of subsections (b) and (c) of this section. The detailed
 713 data points for such summary, including data to be collected but not
 714 reported, shall be developed by the Chief Court Administrator in
 715 consultation with representatives from the Governor's office, the
 716 banking industry and consumer advocates.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	49-31l
Sec. 2	<i>from passage</i>	49-31n

Statement of Purpose:

To eliminate the June 30, 2014 sunset date on the Foreclosure Mediation Program.